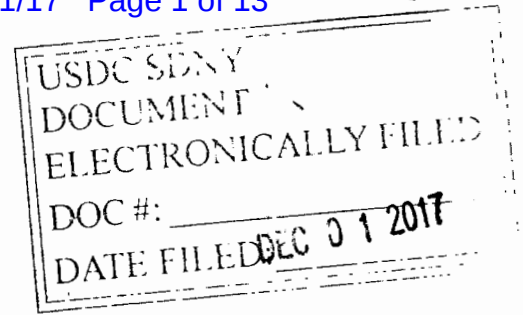


ORIGINAL



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - - x
UNITED STATES OF AMERICA :
 :
- v. - :
 :
JOSEPH ATUANA, and :
AYODELE ADENIRAN, :
 :
Defendants. :
- - - - - x

SUPERSEDING INDICTMENT

S4 16 Cr. 672 (KPF)

COUNT ONE

(Conspiracy to Commit Bank and Wire Fraud)

The Grand Jury charges:

1. From at least in or about April 2012 up to and including at least in or about September 2016, in the Southern District of New York and elsewhere, JOSEPH ATUANA and AYODELE ADENIRAN, the defendants, and others known and unknown, willfully and knowingly, did combine, conspire, confederate, and agree together and with each other to commit wire fraud, in violation of Title 18, United States Code, Section 1343, and bank fraud, in violation of Title 18, United States Code, Section 1344, to wit, ATUANA and ADENIRAN conspired to obtain funds from federally insured financial institutions through fraudulent means, including through fraudulent checks, unauthorized fund transfers, and by causing victim companies to transfer funds through the use of fraudulent e-mail solicitation, the proceeds of which were then deposited into bank accounts controlled by ATUANA and ADENIRAN.

2. It was a part and object of the conspiracy that JOSEPH ATUANA and AYODELE ADENIRAN, the defendants, and others known and unknown, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, would and did transmit and cause to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, in violation of Title 18, United States Code, Section 1343.

3. It was further a part and object of the conspiracy that JOSEPH ATUANA and AYODELE ADENIRAN, the defendants, and others known and unknown, willfully and knowingly, would and did execute and attempt to execute a scheme and artifice to defraud a financial institution, the deposits of which were then insured by the Federal Deposit Insurance Corporation ("FDIC"), and to obtain moneys, funds, credits, assets, securities, and other property owned by, and under the custody and control of, such financial institution, by means of false and fraudulent pretenses, representations, and promises, in violation of Title 18, United States Code, Section 1344.

Overt Acts

4. In furtherance of said conspiracy and to effect the illegal objects thereof, the following overt acts, among others, were committed and caused to be committed in the Southern District of New York and elsewhere:

a. On or about April 4, 2012, in Manhattan, New York, JOSEPH ATUANA, the defendant, opened a commercial bank account in the name of "NIMJAC INC" at a branch of Capital One Bank (the "NIMJAC Capital One Account").

b. Between on or about June 29, 2012, and on or about July 3, 2012, six deposits were made into the NIMJAC Capital One Account, in the total amount of approximately \$58,128.34.

c. In or about January 2014, in Manhattan, New York, ATUANA opened a business account at a branch of PNC Bank, in the name of "Lets Fete LLC" (the "Lets Fete PNC Account").

d. Between in or about June 2014 and July 2014, the Lets Fete PNC Account received approximately 3,202 debit transactions totaling approximately \$446,886 from various bank accounts, ranging in individual amounts from approximately \$25 to approximately \$220.

e. Between on or about June 16, 2014 and on or about July 3, 2014, approximately \$262,000 was wired from the Lets

Fete PNC Account to a bank account held at People's United Bank in the name of "ATA Crescent Corporation" (the "ATA Crescent Account"), which was controlled by AYODELE ADENIRAN, the defendant.

f. On or about February 26, 2014, in response to a fraudulent e-mail which purported to be from the owner of a domestic victim company, approximately \$20,000 was wired by that victim company to an account at Trustco Bank that was controlled by JOSEPH ATUANA, the defendant ("Trustco Account No. 1").

g. On or about February 27, 2014, checks for approximately \$9,650 and approximately \$8,850, written on Trustco Account No. 1, were deposited into an account at People's United Bank, which was controlled by AYODELE ADENIRAN, the defendant, and listed an address for ADENIRAN in Manhattan, New York.

h. On or about September 15, 2014, approximately \$31,130 was wired by a foreign victim company to an account at Trustco Bank, which was controlled by ADENIRAN, and listed an address for ADENIRAN in Manhattan.

(Title 18, United States Code, Section 1349.)

COUNT TWO

(Bank Fraud)

The Grand Jury further charges:

5. From at least in or about April 2012 up to and including at least in or about September 2016, in the Southern District of New York and elsewhere, JOSEPH ATUANA and AYODELE ADENIRAN, the defendants, willfully and knowingly, would and did execute a scheme and artifice to defraud a financial institution, the deposits of which were then insured by the FDIC, and to obtain the moneys, funds, credits, assets, securities, and other property owned by, and under the custody and control of a financial institution by means of false and fraudulent pretenses, representations, and promises, to wit, ATUANA and ADENIRAN obtained funds from federally insured financial institutions through fraudulent means, including through fraudulent checks, unauthorized fund transfers, and by causing victim companies to transfer funds through the use of fraudulent e-mail solicitation, the proceeds of which were then deposited into bank accounts controlled by ATUANA and ADENIRAN.

(Title 18, United States Code, Sections 1344 and 2.)

COUNT THREE

(Wire Fraud)

The Grand Jury further charges:

6. From at least in or about February 2013 up to and including at least in or about June 2015, in the Southern District of New York and elsewhere, JOSEPH ATUANA and AYODELE ADENIRAN, the defendants, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, would and did transmit and cause to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, to wit, ATUANA and ADENIRAN received, and attempted to receive, fund transfers into bank accounts controlled by ATUANA and ADINERAN, which fund transfers were obtained through fraudulent e-mail solicitations to third-party victims.

(Title 18, United States Code, Sections 1343 and 2.)

COUNT FOUR

(Aggravated Identity Theft)

The Grand Jury further charges:

7. From at least in or about April 2012 up to and including at least in or about September 2016, in the Southern District of New York and elsewhere, JOSEPH ATUANA and AYODELE ADENIRAN, the defendants, knowingly did transfer, possess, and use, without lawful authority, a means of identification of another person, during and in relation to a felony violation enumerated in Title 18, United States Code, Section 1028A(c), to wit, ATUANA and ADENIRAN, possessed and used, and aided and abetted the possession and use of the names and personal information of others to fraudulently obtain funds from bank accounts, in connection with the offenses charged in Counts One, Two, and Three of this Indictment.

(Title 18, United States Code, Sections 1028A(a)(1), 1028A(b)
and 2.)

COUNT FIVE

(Conspiracy to Commit Money Laundering)

The Grand Jury further charges:

8. From at least in or about April 2012 up to and including at least in or about September 2016, in the Southern District of New York and elsewhere, JOSEPH ATUANA and AYODELE

ADENIRAN, the defendants, and others known and unknown, willfully and knowingly, did combine, conspire, confederate, and agree together and with each other to violate Title 18, United States Code, Sections 1956(a)(1)(A)(i) and 1956(a)(1)(B)(i).

9. It was a part and object of the conspiracy that JOSEPH ATUANA and AYODELE ADENIRAN, the defendants, and others known and unknown, in an offense involving and affecting interstate and foreign commerce, knowing that the property involved in certain financial transactions, to wit, the transfer of thousands of dollars in United States currency, represented the proceeds of some form of unlawful activity, would and did conduct and attempt to conduct such financial transactions which in fact involved proceeds of specified unlawful activity, to wit, the proceeds of bank and wire fraud, with the intent to promote the carrying on of the specified unlawful activity, in violation of Title 18, United States Code, Section 1956(a)(1)(A)(i).

10. It was further a part and object of the conspiracy that JOSEPH ATUANA and AYODELE ADENIRAN, the defendants, and others known and unknown, in an offense involving and affecting interstate and foreign commerce, knowing that the property involved in certain financial transactions, to wit, the transfer of thousands of dollars in United States Currency, represented the proceeds of

some form of unlawful activity, and knowing that the transactions were designed in whole and in part to conceal and disguise the nature, location, source, ownership, and control of the proceeds of specified unlawful activity, to wit, the proceeds of bank and wire fraud, would and did conduct and attempt to conduct such financial transactions, which in fact involved the proceeds of specified unlawful activity, to wit the proceeds of bank and wire fraud, in violation of Title 18, United States Code, Section 1956(a)(1)(B)(i).

Overt Acts

11. In furtherance of said conspiracy and to effect the illegal objects thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

a. In or about January 2014, JOSEPH ATUANA, the defendant, opened a business account at a branch of PNC Bank, located in Manhattan, New York, which account was used to fraudulently obtain funds from victims, and to send those funds to bank accounts controlled by co-conspirators.

b. In or about November 2015, AYODELE ADENIRAN, the defendant, deposited approximately \$15,850 of fraudulently-obtained funds from a victim into a bank account belonging to ADENIRAN, in Manhattan.

(Title 18, United States Code, Section 1956(h).)

COUNT SIX

(False Statement in Application for Passport)

The Grand Jury further charges:

12. On or about October 6, 2016, in the Southern District of New York and elsewhere, JOSEPH ATUANA, the defendant, willfully and knowingly, did make false statements in an application for a passport, with intent to induce and secure the issuance of a passport under the authority of the United States, for his own use and the use of another, contrary to the laws regulating the issuance of passports and the rules prescribed pursuant to such laws, to wit, ATUANA submitted a United States passport application containing false representations that his passport had been lost or stolen.

(Title 18, United States Code, Section 1542.)

FORFEITURE ALLEGATION

13. As a result of committing the offenses alleged in Counts One, Two, and Three of this Indictment, JOSEPH ATUANA and AYODELE ADENIRAN, the defendants, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(2)(A), any and all property constituting or derived from, proceeds obtained directly or indirectly, as a result of the

commission of said offenses, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of said offenses.

14. As a result of committing the offense alleged in Count Five of this Indictment, JOSEPH ATUANA and AYODELE ADENIRAN, the defendants, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(1), any and all property, real and personal, involved in said offense, or any property traceable to such property, including but not limited to a sum of money in United States currency representing the amount of property involved in said offense that the defendant personally obtained.

SUBSTITUTE ASSET PROVISION

15. If any of the above-described forfeitable property, as a result of any act or omission of the defendants:


- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or

e. has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p) and Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of the defendants up to the value of the forfeitable property described above.

(Title 18, United States Code, Section 982; Title 21, United States Code, Section 853; and Title 28, United States Code, Section 2461.)


FOREPERSON


JOON H. KIM
Acting United States Attorney

Form No. USA-33s-274 (Ed. 9-25-58)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

v.

JOSEPH ATUANA, and
AYODELE ADENIRAN,

Defendants.


SUPERSEDING INDICTMENT

S4 16 Cr. 672 (KPF)

(18 U.S.C. §§ 1343, 1344, 1349, 1028A,
1956(h), 1542, and 2.)

JOON H. KIM

Acting United States Attorney



Foreperson

December 1, 2017

Filed Fourth Superseding Indictment.

U.S.M.J. Debra Freeman